

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1977 of 2001

to

FIRST APPEAL No 2009 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

and

Hon'ble MR.JUSTICE J.R.VORA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

BHAILALBHAI ISHWARBHAI

Appearance:

MR AD OZA, GP for Appellants in FA No. 1977 to 1993/2001
MS MANISHA LAVKUMAR, AGP for Appeallants in FA No. 1994 to 2009/2001
MR PRASHANT MANKAD for Respondents

CORAM : MR.JUSTICE N.G.NANDI

and

MR.JUSTICE J.R.VORA

Date of decision: 16/03/2002

COMMON ORAL JUDGEMENT (Per : MR.JUSTICE N.G.NANDI)

1. This group of 33 Appeals is directed against the common judgment and award dated 5.11.1999, passed in Land Reference Case Nos. 421/1998 to 433/1998, 437/1998 to 456/1998, by the learned 8th Joint Civil Judge (S.D.), Vadodara, under Section 18 of the Land Acquisition Act (hereinafter referred to as the "Act), awarding compensation at the rate of Rs. 37.50 per sq. meter on yield method as against the demand by the claimants at the rate of Rs.50 per sq. meter.

2. The lands are situated in the outskirts of village Timbarva, Taluka Shinor, District Vadodara, for which Notification under Section 4 of the Act came to be issued between 1.1.1995 and 1.6.1995. Notification under Section 6 came to be issued in the month of February 1996 and May 1996 covering all these lands. The Special Land Acquisition Officer has awarded the compensation at the rate Rs.3.21 and Rs. 3.84 for non-irrigated and irrigated lands in Case No. 104/94, in Case No. 32/94 at the rate of Rs. 3.18 and Rs. 4.77 respectively, and in Case No.114/94 at the rate of Rs. 3.24 and Rs. 4.77 per sq. meter as against the demand of Rs.50/- per sq. meter by the claimants.

3. Being aggrieved with the amount of compensation awarded by the Special Land Acquisition Officer, as above, the claimants preferred Reference under Section 18 of the Act before the Civil Court at Vadodara, wherein the Reference Court awarded the compensation at the rate of Rs. 37.50 per sq. meter on the basis of the yield method.

4. We have heard the learned advocates appearing for the Appellants as well as the respondents claimants.

5. It may be noted at the outset that the yield method for determining compensation, has to be resorted as the last resort.

6. The lands in question are piyat land and non-piyat land. The learned AGP has relied on the decision rendered by the Division Bench of this Court in First Appeal No. 3262/2000 wherein the High Court

confirmed the compensation at the rate of Rs. 12.75 awarded by the Reference Court in respect of the agricultural lands situated adjacent to the present land in question, at village Timbarva, Taluka Shinor, District Vadodara. The copy of the judgment has been placed on record for our perusal. In the case before the Division Bench, the Notification under Section 4 of the Act was issued on 26th October, 1995. In the case before the Division Bench, a judgment of this Court in earlier matter, was placed at Exh.14 wherein the lands of village Timbarva were required, for which the Notification under Section 4 was issued on 17.5.1990 and the compensation awarded at the rate of Rs. 11.25 per sq. meter. In the instant case, the Notifications under Section 4 have been issued between January and June 1995.

7. The present group of appeals is squarely covered by the judgment rendered by the Division Bench in F.A. No. 3262/2000.

The claimants would be entitled to 10% increase every year, which would entitle the claimants to the increase by 50% over above the amount of Rs. 11.25 per sq. meter granted for the adjacent land, for which the Notification under Section 4 of the Act was issued on 17th May, 1990. In the instant case, the claimants would be entitled to the compensation of Rs.11.25 per sq. meter + 50% which would come to Rs. 16.90 per sq. meter to round off at the rate of Rs. 17.00 per sq. meter.

8. In view of the above, all these appeals are partly allowed to the extent pointed out above. The judgment and award dated 5.11.1999 awarding compensation at the rate of Rs. 37.50 per sq. meter is quashed and set aside and it is ordered that the claimants respondents are entitled to total sum of Rs. 17.00 per sq. meter as awarded by this Court along with other statutory benefits for which the respondents - claimants are entitled including interest, as awarded by the Reference Court.

9. The amount of compensation as above be deposited by the appellant - State on or before 30.6.2002 in the Reference/Trial Court. On the deposit being made, the Trial Court shall disburse the amount by Account Payee Cheque to the claimants - respondents.

9. In the result, the Appeals stand allowed to the aforesaid extent. Decree accordingly.

(N.G. Nandi, J.) (J.R. Vora, J.)

